

### **REMARKS**

Reexamination and reconsideration of the rejections are hereby requested.

Claims 1-44 are pending in this application. Claim 1 is being amended in accordance with the telephone interview with the examiner. Claims 12-40 and 43-44 are being cancelled to simplify the issues. The remaining claims are claims 1-11, 41 and 42.

At the outset, the undersigned attorney and some of the inventors wish to thank Examiner Kao for according them a telephone interview to discuss the rejections. The applicants stated their position that the references of record fail to teach or suggest a material limitation in the claims, namely, that the encapsulant is in direct contact with the X-ray tube. It was pointed out that the references do not disclose an encapsulant in direct contact with the X-ray tube, but rather, disclose that the X-ray tube is located in a cavity that is either gas or oil filled. The undersigned attorney pointed to the Skillicorn, Nakamura, Miles, and Morrison patents to establish the lack of direct contact. The examiner acknowledged that these references do not teach direct contact between an encapsulant and the X-ray tube. The examiner suggested that the independent claims be amended to recite that the encapsulant is in direct contact with substantially the entire X-ray tube. Independent claim 1 has been amended to include this language. The examiner indicated that he suggested the term "substantially" so as to make it clear that, for example, the window through which X-rays emerge is not encapsulated.

The examiner stated that the amended claims would patentably distinguish over the art of record. The examiner further stated that upon receipt of this amendment he would update his search.

The pending claims have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over certain claims of co-pending application number 10/370,783 in view of Miles. In order to move prosecution forward, enclosed herewith is a terminal disclaimer with respect to co-pending application 10/370,783. It is submitted that the filing of the terminal disclaimer in this case will allow both this case and it's parent, U.S. serial number 10/370,783, to issue.

For the foregoing reasons, it is submitted that this application is in condition for allowance and an early favorable action is requested.

Respectfully submitted,  
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